

(ii) The requestor has failed previously to pay a fee in a timely fashion.

(4) When the agency requests an advance payment, the time limits prescribed in section (a)(6) of the Freedom of Information Act will begin only after the agency has received full payment.

#### § 1100.7 Foundation report of actions.

On or before March 1 of each calendar year, each member agency of the National Foundation on the Arts and the Humanities shall submit a report of its activities with regard to public information requests during the preceding calendar year to the Speaker of the House of Representatives and to the President of the Senate. The report shall include:

(a) The number of determinations made by each member agency of the National Foundation on the Arts and the Humanities not to comply with requests for records made to the agency under the provisions of this part and the reasons for each such determination;

(b) The number of appeals made by persons under such provision, the result of such appeals, and the reasons for the action upon each appeal that results in the denial of information;

(c) The names and titles or positions of each person responsible for the denial of records requested under the provisions of this part and the number of instances of participation for each;

(d) The results of each proceeding conducted pursuant to 5 U.S.C. 552(a)(4)(F), as amended, including a report of the disciplinary action taken against the officer of employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(e) A copy of every rule made by the Foundation implementing the provisions of the FOIA.

(f) A copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(g) Such other information as indicates efforts to administer the provisions of the FOIA, as amended.

## PART 1105—STANDARDS OF CONDUCT OF EMPLOYEES

Sec.

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### APPENDIX TO PART 1105—RELATED STATUTORY PROVISIONS

AUTHORITY: E.O. 11222 of May 8, 1965, 3 CFR, 1965 Supp.; 5 CFR 735.104.

SOURCE: 32 FR 17663, Dec. 12, 1967, unless otherwise noted.

#### § 1105.735-1 Purpose.

While confident of the integrity and sense of responsibility of the employees of the National Endowment for the Arts and the National Endowment for the Humanities, it is essential to the Government and to the conduct of the business of the National Endowment for the Arts and the National Endowment for the Humanities that unusually high standards of honesty, integrity, impartiality, and conduct be maintained by employees of the Endowments. In accordance with these concepts, this part sets forth policies and procedures of the Endowments with respect to employee conduct, certain permissible and prohibited outside activities, and possible conflicts-of-interest situations.

#### § 1105.735-2 Scope.

The policies and procedures contained in this part apply to all employees of the Endowments, except that specific provision is made in § 1105.735-6-(b) for the filing of Statements of Employment and Financial Interests by special Government employees.

#### § 1105.735-3 Definitions.

(a) *Employee* means an officer or employee of the National Endowment for the Arts or the National Endowment for the Humanities or a member of the shared staff of both Endowments. The term *employee* includes both a *regular employee* (as defined in this section) and

a *special Government employee* unless expressly qualified.

(b) *Regular employee* means a person holding an appointment in the competitive or excepted service, occupying a position on the staff of either Endowment or the shared staff of both Endowments, without regard to assigned working schedule (that is, including full-time, part-time and intermittent schedules), but excluding all *special Government employees* who have not been designated as *regular employees* by the Chairman of either Endowment for purposes of these regulations.

(c) *Full-time employee* means a *regular employee* with an assigned full-time working schedule.

(d) *Part-time employee* means a *regular employee* with an assigned part-time (less than 40 hours a week) work schedule.

(e) *Intermittent employee* means a *regular employee* with an assigned intermittent working schedule.

(f) *Shared staff and joint employees* mean employees performing services for both Endowments on a shared basis.

(g) *Special Government employee* means a *special Government employee* as defined in section 202 of title 18 of the United States Code who is employed by the National Endowment for the Arts or the National Endowment for the Humanities, or by both Endowments jointly.

(h) *Endowment* means either the National Endowment for the Arts or the National Endowment for the Humanities.

(i) *Foundation* means the National Foundation on the Arts and the Humanities.

(j) *Chairman* means the Chairman of the National Endowment for the Arts, or the Chairman of the National Endowment for the Humanities.

(Sec. 10, 79 Stat. 852 as amended 82 Stat. 186, 84 Stat. 443 (20 U.S.C. 959))

[38 FR 3511, Feb. 7, 1973]

**§ 1105.735-4 Statutory provisions.**

Each employee is responsible for acquainting himself not only with the provisions of this part, but also with applicable portions of each Federal statute relating to his conduct as an employee of the National Endowment for the Arts or the National Endow-

ment for the Humanities and of the U.S. Government. This part will be called to the attention of all employees by the Administrative Officer of the Foundation at least once a year and he will provide a copy of the part to each new employee who joins either the National Endowment for the Arts or the National Endowment for the Humanities or becomes a member of the shared staff. (A list of pertinent statutes is provided in the Appendix to this part.)

**§ 1105.735-5 Conflicts-of-Interest Counselor.**

(a) *Conflicts-of-Interest Counselor*. The General Counsel of the Foundation is designated the Conflicts-of-Interest Counselor, with responsibility for providing, on request from any employee, counsel regarding conflicts-of-interest regulations and requirements, as well as their applicability in particular situations. Each employee is responsible for seeking the advice of the Conflicts-of-Interest Counselor whenever it appears that he may be, or may become, involved in a possible conflicts-of-interest situation. Any supervisor may refer to the Conflicts-of-Interest Counselor any possible conflicts-of-interest situation involving a subordinate of his whenever he deems such action appropriate. In such cases, the subordinate concerned shall be informed that the matter has been referred for consideration and shall be afforded the opportunity to state his case. The General Counsel of the Foundation is responsible for reviewing conflicts-of-interest matters brought to his attention and for attempting to work with the employees concerned in resolving such situations, and for offering employees an opportunity to explain any conflict or appearance of conflict. Matters which cannot be satisfactorily resolved in this manner will be referred to the Chairman of the Endowment concerned, or, in the case of a share staff member, to the Chairmen of both Endowments, for decision and appropriate action. Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

(b) *Disciplinary and other remedial actions*. When there is a final decision